

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LOWANA SHANELL DUMAS,

Plaintiff,

v.

Case No. 10-12661

HURLEY MEDICAL CENTER, et al.,

Defendants.

ORDER DENYING PLAINTIFF'S "MOTION TO COMPEL DISCOVERY OF AFSCME"

Pending before the court is Plaintiff Lowana Dumas's motion to compel discovery from Defendants AFSCME Council 25, Local 1603, Deloris Lots, and Patricia Ramirez (collectively the "AFSCME Defendants"). Defendants filed a response on November 7, 2011, and Plaintiff replied on November 8, 2011. At the direction of the court, the AFSCME Defendants filed a supplemental brief on November 30, 2011. For the reasons set forth below, the court will deny Plaintiff's motion.

On September 26, 2011, Plaintiff served the AFSCME Defendants with a subpoena directing them to produce "the written report and audio recording for the AFSCME Local 1603 Emergency Executive Board Meeting which took place on October 04, 2007." (Pl.'s Mot. Ex. 1.) In her motion, Plaintiff alleges that the AFSCME Defendants failed to produce the requested documents. Defendants contend that Plaintiff is already in possession of the minutes from the October 4, 2007 meeting and no audio recording of the meeting exists. (Defs.' Resp. at 1-2.) On October 2, 2011, Plaintiff filed on the court's docket a reply to the AFSCME Defendants' response to

Plaintiff's motion for contempt [Dkt. #88] and attached as an exhibit the minutes from the meeting in question. In their supplemental brief, Defendants indicate that the copy of the minutes Plaintiff attached is an accurate version of the meeting minutes in question.

Because Plaintiff is already in possession of the document she requests in the subpoena, the court will not direct Defendants to produce the meeting minutes. Further, the AFSCME Defendants have declared that no tape recording of the meeting exists, and there has been no showing to the contrary. The court cannot order a party to produce a document or recording that does not exist. Accordingly,

IT IS ORDERED that Plaintiff's "Motion to Compel Discovery of AFSCME" [Dkt. # 93] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 6, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 6, 2011, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522